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A Voice for California Small Business



California State
BOARD OF EQUALIZATION
DISTRICT 3

Stop the \$45 Billion Sales Tax on Services

Taxpayers could pay \$45 billion in higher taxes on the following events and services:

- Going to a movie
- Hiring a babysitter
- Repairing Your Car
- Hailing a cab
- Balancing your books
- Getting a haircut
- Going to the gym
- Hiring a lawyer
- Putting boxes in storage
- Vacationing at Disneyland
- Getting Your Oil Changed
- Towing your car

Self-employed & small businesses who will be forced to register with the Board of Equalization

- Accountants
- Lawyers
- Hair Stylists
- Manicurists
- Dry Cleaners
- Laundromats
- Amusement Parks
- Advertising Firms
- Auto Repair Shops
- Animal Breeders/ Kennels
- Car Washes
- Construction Companies

Unfair, Double Tax on California Taxpayers.

Sales Tax and Income Tax Charged on the Same Work

California's accountants, lawyers, dry cleaners, and auto repair shops already pay one of the nation's highest state income taxes. Adding a SOS (Sales Tax on Services) would translate into a double tax on their hard work. First, service-businesses would pay a new sales tax on a monthly or quarterly basis, followed by an annual state income tax on the same service.

In order to avoid double taxation of service industries, many states with a SOS (sales tax on services) like Texas, Wisconsin South Dakota and Washington don't have a state income tax.

Leaves Struggling Service Businesses in Distress

Creates New Mandatory Statewide Business Registration Program

This proposal requires millions of self-employed and small businesses to register with the State Board of Equalization, obtain a California seller's permit, and file another tax return to a new agency.

Paperwork Nightmare for Small Businesses

On top of new reporting requirements, new businesses will be forced to file and maintain a mountain of new paperwork. More paperwork means more headaches for business owners. According to a 2004 Pricewaterhouse Coopers study, the sales tax compliance costs small businesses up to 13% of the total sales taxes collected.

Won't Bring in a Single Penny for this Year's Budget Deficit

California will not see a single penny of new revenue for the 2008-2009 state budget year. In fact, the SOS (sales tax on services) will cost taxpayers millions of dollars to create the necessary government infrastructure to administer the tax. It will take at least a year to educate businesses on their new tax obligations and reporting requirements.

Remember, most of these businesses do not currently register with the State Board of Equalization, nor do they have a seller's permit.

Sales tax on service

Point Refuted: Health Clubs vs. Home Exercise Equipment

Proponents claim that the sales tax code is unfair and as evidence cite the example of exercise equipment vs. a gym membership. They say, "If you buy a treadmill for your home, then you pay sales tax. But, if you go to a gym, your gym membership is sales tax-free. "

However, proponents forget that gyms and health clubs pay the same sales tax on equipment purchases as average consumers. With an SOS (Sales tax on Services), service businesses will be taxed twice, first on the purchase of equipment and then on the sale of a membership.



Taxpayers Should Fear an Illegal End Run Around State Constitution

Any Californian Can Petition the Board of Equalization to Impose this New Sales Tax on Services

It's scary, but true. Anyone in California can petition the State Board of Equalization to redefine what's taxable in California, including a new extension of the sales tax to services.

Government Code Section 11340.6 states, *"Any interested person may petition a state agency requesting the adoption, amendment, or repeal of a regulation."*

Expanding the Sales Tax to Services By Regulatory Redefinition Would be Illegal

Although the BOE has rulemaking authority, those regulations must follow and are subordinate to state law and the California Constitution. Just because any Californian can introduce the regulation doesn't mean it's legal or constitutional.

Tax Increases Require 2/3 LEGISLATIVE Vote. California's Constitution, courtesy of Proposition 13, requires the Legislature to approve new taxes by a 2/3 vote. The Board of Equalization cannot arbitrarily raise taxes.

Sales Tax Law is Limited to Tangible Personal Property. California's sales tax law was never intended to apply to services; it was strictly limited to tangible personal property. The Legislative Counsel's office, the Legislature's attorneys, has always required any expansion of the sales tax to get 2/3 vote in the State Legislature. In 2005, Assemblyman Joe Coto introduced AB 9, which would expand the sales tax to services. It required 2/3 vote from the Legislature.

Taxpayers Must Take This Threat Seriously; Illegal Tax Increase Extremely Plausible

Despite the fact that this new sales tax on services is illegal, it is also extremely plausible. Taxpayers and small businesses must take this multi-billion dollar tax threat seriously.

Historic Budget Crisis Has No Easy Solution. The state is facing an astonishing \$17 billion budget deficit. Thanks to the past budget bonds, California can no longer borrow money to solve our budget deficit. Furthermore, Controller John Chiang says that the state will run out of money by September.

Gridlock in the Legislature. Legislative Republicans refuse to support new taxes; Democrats refuse to make more spending cuts. There doesn't appear to be any middle ground. The State Board of Equalization could fill this void and worry about the legality of its actions later.

Anyone Can Introduce this Regulation. This tax increase has to be considered a credible threat, considering any person in the state can propose the regulation. Anyone who suffers as a result of this budget stalemate can introduce a regulatory change, and the Board must consider it within 30 days.

Pro-Tax Lobby Has Laid the Foundation; This Tax Scheme Wouldn't Be Unprecedented. The Board of Equalization has already treaded into questionable legal ground with two illegal tax increases, the iTax and Flavored Malt Beverages. In the case of the iTax, the Legislature considered a proposal to force the Board of Equalization to raise taxes on digital downloads without a 2/3 vote of the Legislature. With flavored malt beverages, the Board of Equalization reinterpreted the definition of taxable alcohol sales after the Legislature refused to raise taxes.

Taxpayers, Small Business Owners and Service Industry Employees Must Work Together to Defeat this Billion Dollar Tax!